

# FIRST SET OF UK CLIMATE DISCLOSURE RULES APPLICABLE TO ASSET MANAGERS COME INTO FORCE

20 December 2021 | London  
Legal Briefings

---

The FCA's new rules are first piece of the UK's ESG regulatory jigsaw and start applying in a phased manner from 1 January 2022.

In June this year, the Financial Conduct Authority (“**FCA**”) published a [consultation paper](#) setting out its proposals to introduce climate-related financial disclosure rules and guidance for asset managers, life insurers, and FCA-regulated pension providers, consistent with the TCFD’s recommendations and recommended disclosures (CP 21/17) (the “**Consultation Paper**”). Our earlier [briefing](#) focussed on how the proposed rules and guidance would apply to asset managers (and their funds and segregated mandates).

Following the consultation process which completed on 10 September, the FCA has now published a [policy statement](#) (PS21/24 (the “**Policy Statement**”), setting out its final set of rules.

In large part, the final rules follow the draft version set out in the Consultation Paper. However, some key points to note are as follows:

**Dealing with data gaps or methodological challenges** – In the Consultation Paper, the FCA had suggested that data gaps or methodological challenges should be adequately explained and sought to be addressed by using proxy data or assumptions and briefly setting out any methodologies used in doing so. Following feedback, the FCA has acknowledged where the use of proxy data or assumptions would, in the asset manager’s reasonable opinion, make the resulting disclosure misleading, the relevant disclosures should not be made. The FCA does, however, clarify that it expects these challenges to be transitional and considers that such gaps and challenges are only likely to arise in relation to certain asset classes such as asset-backed securities and currencies, and are likely to narrow over time.

**On-demand disclosures to clients** – In relation to product disclosures, the Consultation Paper had proposed that where public disclosures were not required to be made for certain in-scope products, to the extent the clients in relation to these products required TCFD reporting in order to discharge their own legal obligations, they could require “on-demand” disclosures. While this concept was supported by respondents to the Consultation Paper, concerns were raised over the fact the clients could select their own calculation dates for these disclosures, which could result in asset managers having to prepare multiple reports using different calculation dates. This has now been remedied, by allowing the asset manager to select the date as at which it has the most up-to-date information available for reporting purposes, or to otherwise agree a different calculation date with a client. The FCA has not however suggested a standardised reporting format for on-demand reporting, as was suggested by some respondents. Instead, the rules state that the disclosures should be provided in a “reasonable” format and the FCA considers that the asset management industry would be best placed to develop a standardised template, if useful.

**Use of additional metrics in product level disclosures** – The FCA had originally proposed that in addition to the “core” metrics set out in the TCFD, product-level reports should also include disclosures on certain “additional” metrics on a “best efforts” basis. Following feedback, the final rules now require these additional disclosures “as far as reasonably practicable” and not on a “best efforts” basis, thereby reducing the disclosure burden.

The rules will follow a phased implementation: (i) the first phase will be effective from 1 January 2022, applying to asset managers with more than £50 billion in AuM, which will be required to make their first disclosures by 30 June 2023; and (ii) the second phase will be effective from 1 January 2023, applying to the remaining asset managers with more than £5 billion in AuM, which will be required to make their first disclosures by 30 June 2024. The FCA will consider whether to lower the £5 billion threshold after 3 years of disclosures and, therefore, “encourages” firms below the current threshold to make disclosures voluntarily where possible, or start building the capabilities to do so.

If you have any questions, please do not hesitate to reach out to the contacts listed below or your usual HSF contact.



## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



**NISH DISSANAYAKE**  
PARTNER, LONDON

+44 20 7466 2365  
Nish.Dissanayake@hsf.com



**MARINA REASON**  
PARTNER, LONDON

+44 20 7466 2288  
marina.reason@hsf.com



**SHANTANU  
NARAVANE**  
SENIOR ASSOCIATE,  
LONDON

+44 20 7466 2077  
Shantanu.Naravane@hsf.com

---

## LEGAL NOTICE

The contents of this publication are for reference purposes only and may not be current as at the date of accessing this publication. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2022

---

**SUBSCRIBE TO STAY UP-TO-DATE WITH INSIGHTS, LEGAL UPDATES, EVENTS, AND MORE**

Close